

## Minerals Management Service, Interior

## § 281.18

tracts will be considered in the environmental analysis conducted for the proposed lease offering.

### § 281.15 Tract size.

The size of the tracts to be offered for lease shall be as determined by the Secretary and specified in the leasing notice. It is intended that tracts offered for lease be sufficiently large to include potentially minable OCS mineral orebodies. When the presence of any minable orebody is unknown and additional prospecting is needed to discover and delineate OCS minerals, the size of tracts specified in the leasing notice may be relatively large.

### § 281.16 Proposed leasing notice.

(a) Prior to offering OCS minerals in an area for lease, the Director shall assess the available information including recommendations of any joint State/Federal task force established pursuant to § 281.13 of this part to determine lease sale procedures to be prescribed and to develop a proposed leasing notice which sets out the proposed primary term of the OCS mineral leases to be offered; lease stipulations including measures to mitigate potentially adverse impacts on the environment; and such rental, royalty, and other terms and conditions as the Secretary may prescribe in the leasing notice.

(b) The proposed leasing notice shall be sent to the Governor(s) of any adjacent State(s), and a Notice of its availability shall be published in the FEDERAL REGISTER at least 60 days prior to the publication of the leasing notice.

(c) Written comments of the adjacent State Governor(s) submitted within 60 days after publication of the Notice of Availability of the proposed leasing notice shall be considered by the Secretary.

(d) Prior to publication of the leasing notice, the Secretary shall respond in writing to the comments of the adjacent State Governor(s) stating the reasons for accepting or rejecting the Governor's recommendations, or for implementing any alternative mutually acceptable approach identified in consultation with the Governor(s) as a means to provide a reasonable balance between the national interest and the

well being of the citizens of the adjacent State.

### § 281.17 Leasing notice.

(a) The Director shall publish the leasing notice in the FEDERAL REGISTER at least 30 days prior to the date that OCS minerals will be offered for lease. The leasing notice shall state whether oral or sealed bids or a combination thereof will be used; the place, date, and time at which sealed bids shall be filed; and the place, date, and time at which sealed bids shall be opened and/or oral bids received. The leasing notice shall contain or reference a description of the tract(s) to be offered for lease; specify the mineral(s) to be offered for lease (if less than all OCS minerals are being offered); specify the period of time the primary term of the lease shall cover; and any stipulation(s), term(s), and condition(s) of the offer to lease (43 U.S.C. 1337(k)).

(b) The leasing notice shall contain a reference to the OCS minerals lease form which shall be issued to successful bidders.

(c) The leasing notice shall specify the terms and conditions governing the payment of the winning bid.

### § 281.18 Bidding system.

(a) The OCS minerals shall be offered by competitive, cash bonus bidding under terms and conditions specified in the leasing notice and in accordance with all applicable laws and regulations.

(b)(1) When the leasing notice specifies the use of sealed bids, such bids received in response to the leasing notice shall be opened at the place, date, and time specified in the leasing notice. The sole purpose of opening bids is to publicly announce and record the bids received, and no bids shall be accepted or rejected at that time.

(2) The Secretary reserves the right to reject any and all sealed bids received for any tract, regardless of the amount offered.

(3) In the event the highest bids are tie bids when using sealed bidding procedures, the tied bidders may be permitted to submit oral bids to determine the highest cash bonus bidder.

## § 281.19

## 30 CFR Ch. II (7–1–10 Edition)

(c)(1) When the leasing notice specifies the use of oral bids, oral bids shall be received at the place, time, and date and in accordance with the procedures specified in the leasing notice.

(2) The Secretary reserves the right to reject all oral bids received for any tract, regardless of the amount offered.

(d) When the leasing notice specifies the use of deferred cash bonus bidding, bids shall be received in accordance with paragraph (b) or (c) of this section, as appropriate. The high bid will be determined based upon the net present value of each total bid. The appropriate discount rate will be specified in the leasing notice. High bidders using the deferred bonus option shall pay a minimum of 20 percent of the cash bonus bid prior to lease issuance. At least a total of 60 percent of the cash bonus bid shall be due on or before the 5th anniversary of the lease, and payment of the remainder of the cash bonus bid shall be due on the 10th anniversary of the lease. The lessee shall submit a bond guaranteeing payment of the deferred portion of the bonus, in accordance with § 281.33.

### § 281.19 Lease term.

An OCS mineral lease for OCS minerals other than sand and gravel shall be for a primary term of not less than 20 years as stipulated in the leasing notice. The primary lease term for each OCS mineral shall be determined based on exploration and development requirements for the OCS minerals being offered by the Secretary. An OCS mineral lease for sand and gravel shall be for a primary term of 10 years unless otherwise stipulated in the leasing notice. A lease will continue beyond the specified primary term for so long thereafter as leased OCS minerals are being produced in accordance with an approved mining operation or the lessee is otherwise in compliance with provisions of the lease and the regulations in this chapter under which a lessee can earn continuance of the OCS mineral lease in effect.

### § 281.20 Submission of bids.

(a) If the bidder is an individual, a statement of citizenship shall accompany the bid.

(b) If the bidder is an association (including a partnership), the bid shall be accompanied by a certified statement indicating the State in which it is registered and that the association is authorized to hold mineral leases on the OCS, or appropriate reference to statements or records previously submitted to an MMS OCS office (including material submitted in compliance with prior regulations).

(c) If the bidder is a corporation, the bid shall be accompanied by the following information:

(1) Either a statement certified by the corporate Secretary or Assistant Secretary over the corporate seal showing the State in which it was incorporated and that it is authorized to hold mineral leases on the OCS or appropriate reference to statements or record previously submitted to an MMS OCS office (including material submitted in compliance with prior regulations).

(2) Evidence of authority of persons signing to bind the corporation. Such evidence may be in the form of a certified copy of either the minutes of the board of directors or of the bylaws indicating that the person signing has authority to do so, or a certificate to that effect signed by the Secretary or Assistant Secretary of the corporation over the corporate seal, or appropriate reference to statements or records previously submitted to an MMS OCS office (including material submitted in compliance with prior regulations). Bidders are advised to keep their filings current.

(3) The bid shall be executed in conformance with corporate requirements.

(d) Bidders should be aware of the provisions of 18 U.S.C. 1860, which prohibits unlawful combination or intimidation of bidders.

(e) When sealed bidding is specified in the leasing notice, a separate sealed bid shall be submitted for each bid unit that is bid upon as described in the leasing notice. A bid may not be submitted for less than a bidding unit identified in the leasing notice.

(f) When oral bidding is specified in the leasing notice, information which must accompany a bid pursuant to paragraph (a), (b), or (c) of this section,